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SOAH DOCKET NO. 473-19-1265
PUC DOCKET NO. 48785

JOINT APPLICATION OF ONCOR §
ELECTRIC DELIVERY COMPANY, §
LLC AND AEP TEXAS INC. TO AMEND §
CERTIFICATES OF CONVENIENCE §
AND NECESSITY FOR A DOUBLE §
CIRCUIT 345-KV TRANSMISSION §
LINE IN PECOS, REEVES, AND WARD §
COUNTIES (SAND LAKE – SOLSTICE §
CCN) §

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

**OCCIDENTAL PERMIAN LTD., OXY DELAWARE BASIN, LLC, OXY
USA INC., OXY USA WTP LP, HOUNDSTOOTH RESOURCES, LLC, AND
OCCIDENTAL WEST TEXAS OVERTHRUST, INC.'S
EXCEPTIONS TO THE PROPOSAL FOR DECISION**

April 23, 2019

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RESOURCES, LLC, AND OCCIDENTAL WEST
TEXAS OVERTHRUST, INC.

**SOAH DOCKET NO. 473-19-1265
PUC DOCKET NO. 48785**

JOINT APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY, LLC AND AEP TEXAS INC. TO AMEND CERTIFICATES OF CONVENIENCE AND NECESSITY FOR A DOUBLE CIRCUIT 345-KV TRANSMISSION LINE IN PECOS, REEVES, AND WARD COUNTIES (SAND LAKE – SOLSTICE CCN)	§ § § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**OCCIDENTAL PERMIAN LTD., OXY DELAWARE BASIN, LLC, OXY USA INC.,
OXY USA WTP LP, HOUNDSTOOTH RESOURCES, LLC, AND OCCIDENTAL WEST
TEXAS OVERTHRUST, INC.’S EXCEPTIONS TO THE PROPOSAL FOR DECISION**

I. INTRODUCTION AND SUMMARY

Occidental Permian Ltd., Oxy Delaware Basin, LLC, Oxy USA Inc., Oxy USA WTP LP, Houndstooth Resources, LLC, and Occidental West Texas Overthrust, Inc. (collectively “Oxy”) urge the Commission to reconsider the PFD’s decision to adopt Route 320. Building a transmission line along Route 320 is not in the public interest because that route bisects densely packed and actively expanding oil and gas fields in an area of west Texas where oil and gas production makes up the *vast majority* of the surface development and economic activity.¹ Rather than disrupting that existing and ongoing development, the Commission should select Route 325 Modified (E1/F1 and K11),² which uses the less developed “western corridor” to minimize the negative impact of this line.³ Because oil and gas development is the primary economic driver in

¹ Tr. (Marusak Cr.) at 40:19-41:4 (“Q: [O]utside of the populated areas like the town of Pecos the vast majority of the development in this study area is oil an gas related. Right? A: That has been my experience, correct.”); *see also* Oncor/AEP Ex. 1, Application, Attachment 1 (Environmental Assessment) at 3-29 (“The bulk of the region is used for oil and gas production or range for livestock; cropland within the study area is less common and is limited to scattered irrigated fields.”).

² As explained in detail below, for purposes of these Exceptions, “Route 325 Modified” refers to a route that incorporates Oxy and COG Operating LLC’s “Concho”) proposed modifications to links E1/F1 and K11. Oxy and Concho have obtained route modification consent agreements for those modifications from the affected surface owners.

Oxy is still awaiting a route modification consent agreement from a single affected surface owner along its proposed modification to Link C2, so it is not asking the Commission to adopt that modification at this time. Oxy will update the Commission if and when it obtains that final agreement.

³ Oxy Ex. 3, Cross-Rebuttal Testimony of Albert Mendoza (Mendoza Cross-Reb.) at 3 (“Route 325 Modified follows the western corridor, where Oxy and Concho’s oil and gas operations are not as densely packed or rapidly

this region,⁴ avoiding oil and gas operations is consistent with the Commission's obligation to route transmission lines "to the extent reasonable to moderate the impact on the affected community and landowners."⁵ Additionally, Route 325 Modified was not opposed by any intervenor to this proceeding, and despite its increased cost, Oncor witness Ms. Brenda Perkins referred to it as "***an attractive route the Commission should strongly consider.***"⁶

The negative impacts of adopting Route 320 are undisputed. As the PFD acknowledged, "***[t]he record does not contain statements from the Applicants or others who support Route 320 rebutting Oxy's contentions regarding health, safety, and lost revenues that could occur if Route 325 Modified is not approved.***"⁷ The record establishes that placing a transmission line through the middle of densely packed oil and gas production areas will interfere with ongoing drilling, impede maintenance operations, and create operational safety concerns.⁸ Oil and gas development requires the use of large equipment, tall cranes, and drilling rigs, all of which require special consideration when being transported and operated in the vicinity of a high voltage transmission line.⁹ Additionally, placing a transmission line across an expanding production area will disrupt established drilling patterns and prevent Oxy and other operators from efficiently developing wells in and around the line's right-of-way.¹⁰ As proposed, Route 320 would bisect ***eleven of Oxy's established drilling corridors*** along links F3/G4/G51/I2 and J1/J7.¹¹ Those drilling corridors are areas where Oxy has already invested significant time and resources to conduct geological surveys and develop efficient well spacing that will maximize resource production.¹²

expanding as they are along the central corridor used by the utilities' suggested route 320 or Commission Staff's recommended route 41.").

⁴ Tr. (Marusak Cr.) at 40:19-41:4; *see also* Oncor/AEP Ex. 1, Application, Environmental Assessment at 3-29 ("The bulk of the region is used for oil and gas production or range for livestock; cropland within the study area is less common and is limited to scattered irrigated fields.").

⁵ *See* PUC Subst. R. 25.101(b)(3)(B).

⁶ Oncor/AEP Ex. 13, Rebuttal Testimony of Brenda Perkins (Perkins Reb.) at 4 (emphasis added).

⁷ Proposal for Decision (PFD) at 24.

⁸ Oxy Ex. 2A, Confidential Direct Testimony of Albert Mendoza (Confidential Mendoza Dir.) at 6-8.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *See* Oxy Ex. 4 and 5 (HSPM); Tr. (Mendoza Re-Dir.) at 95:1-14.

¹² Tr. (Mendoza Re-Dir.) at 95:1-23.

In many instances, Oxy is already in the process of constructing facilities to execute the drilling plans that would be disrupted by Route 320.¹³ At the time of the hearing on the merits, Oxy had twelve completed wells within 1,000 feet of route 320¹⁴ and was in the process of constructing an additional seven wells along that same narrow corridor.¹⁵ If Route 320 is constructed through Oxy's established drilling corridors, planned wells will need to be relocated around the line. As discussed at the hearing, relocating even one well within an established drilling plan can have cascading consequences on other locations, which leads to reserves being stranded underground because it is often not possible or economical to readjust the drilling plan in order to access them.¹⁶ This will lead to decreased revenues for Oxy and other producers.¹⁷ Oxy estimates that the loss of a single well in this area would cost it approximately ***[REDACTED]*** per year in lost revenues over the life of a well that could produce for ***[REDACTED]***.¹⁸ Additionally, any decrease in production will harm royalty interest owners, the local economy, and the State of Texas through decreased severance taxes.¹⁹

The PFD selected Route 320 based primarily on its decreased cost and length compared to Route 325 Modified.²⁰ Route 320 is the cheapest route proposed along with the Application, and is estimated to cost \$98,220,000.²¹ Route 325 Modified (E1/F1 and K11) costs \$116,270,000, which, due to Oxy and Concho's efforts to develop proposed modifications, is ***\$112,000 less*** than

¹³ See Oxy Ex. 6 (HSPM) (showing wells that are currently under construction within drilling corridors that would be bisected by Route 320).

¹⁴ Tr. (Mendoza Re-Dir.) at 92:21-93:3.

¹⁵ Tr. (Mendoza Re-Dir.) at 93:4-15; see also Oxy Ex. 4-6.

¹⁶ Tr. (Lowery Re-Dir.) at 107:25-109:15 ("[A] master plan more or less is put together to most efficiently develop those reserves and recover as much oil as possible from the leasehold that we have. And depending on the situation, if you have to move one of those wells . . . there could be as many as four or potentially even more wells that are affected by that. . . . [I]f we have to move the well away from our section line where we're allowed to penetrate – and you have limits, you know, initial take point and final take point along this well that's, you know, two or more miles long. If you shorten that, that decreases the economic benefit, not only to us that's drilling and producing the well, but also to the mineral owners. . . . And then there's cases, too, that you can't justify . . . the considerable expense of drilling another well to recover those incremental reserves because it's simply not enough to -- to make it worthwhile.").

¹⁷ *Id.*

¹⁸ Oxy Ex. 2A (Confidential Mendoza Dir.) at 8.

¹⁹ Oxy Ex. 2, Direct Testimony of Albert Mendoza (Mendoza Dir.) at 7-8; Tr. (Lowery Re-Dir.) at 108:21-109:10.

²⁰ PFD at 10.

²¹ Oncor/AEP Ex. 1, Application at Attachment 3 (cost of filed routes).

the cost of Route 325 as proposed.²² Despite its increased cost, Route 325 Modified is still over \$10.6 million cheaper than the most expensive route filed along with the Application.²³ As discussed in greater detail below, the increased cost of Route 325 Modified is reasonable and within the bounds of outcomes that the Commission has approved in prior cases.

The cost differential between Route 320 and Route 325 Modified is justified to avoid significantly interfering with ongoing oil and gas development, as explained above.²⁴ Additionally, the record shows that the Applicants' cost estimates do not account for all the potential costs of constructing a transmission line through the densely packed and rapidly expanding oil and gas fields along the central corridor. First, if the line renders resources inaccessible or forces existing facilities to be shut in, Oxy and other operators may be entitled to compensation for the interests being taken,²⁵ which could substantially increase the cost of the line.²⁶ Additionally, due to the extremely fast development timeline for oil and gas projects,²⁷ running the line through the densest oil and gas production areas increases the chance that Oncor and AEP will encounter newly-built, unanticipated oil and gas facilities when construction begins.²⁸ Oxy and Concho are not the only operators in this study area, and companies that are not involved in this proceeding are unlikely to be siting their facilities with any knowledge of where this line might run. Shifting the line around such unanticipated obstacles has the potential to significantly increase costs²⁹ and delay construction³⁰ on a project that needs to be built on a

²² Oncor/AEP Ex. 6, Direct Testimony of Wilson Peppard (Peppard Dir.) at 7 (cost estimates for proposed modifications).

²³ The most expensive proposed route is estimated to cost \$126,903,000. *See* Oncor/AEP Ex. 6 (Peppard Dir.) at 7 (\$126,903,000 - \$116,270,000 = \$10,633,000).

²⁴ Oxy Ex. 2 (Mendoza Dir.) at 8-15; Oxy Ex. 3 (Mendoza Cross-Reb.) at 3-4.

²⁵ Oxy is not attempting to litigate condemnation issues in this proceeding. However, the Texas Supreme Court has found that mineral interest owners can be entitled to compensation if the surface estate is taken for a public purpose that makes it uneconomical to harvest the underlying minerals. *See Tarrant County Water Control & Imp. Dist. No. One v. Haupt, Inc.*, 854 S.W.2d 909, 913 (Tex. 1993).

²⁶ Oxy Ex. 2A (Confidential Mendoza Dir.) at 8.

²⁷ Oxy Ex. 2 (Mendoza Dir.) at 7; Tr. (Mendoza Cr.) at 90:7-18 (wells typically go from planning through permitting to construction in six to eight weeks); Tr. (Lowery Cr.) at 101:17-25 (accelerated wells can go from planning to construction in one to two weeks).

²⁸ Tr. (Peppard Cr.) at 42:24-43:4; *see also* Oncor/AEP Ex. 12, Rebuttal Testimony of Wilson Peppard (Peppard Reb.) at 5.

²⁹ Tr. (Peppard Cr.) at 44:2-6, 45:7-46:4.

³⁰ *Id.* at 44:13-18, 45:7-46:4.

short timeline in order to satisfy a critical reliability need.³¹ As the Applicants noted in their briefing to SOAH, “[f]rom a construction standpoint, route 325 may be better than route 320 when considering the likelihood of potential engineering constraints that could arise in the more active developmental areas that route 320 crosses.”³² Avoiding those potential constraints is a significant benefit that should weigh heavily in the Commission’s routing decision.

Because the western corridor is a more compatible location for infrastructure development, the Commission should select route 325 Modified, including Oxy and Concho’s proposed modifications along links E1/F1 and K11.³³ Those modifications would *decrease* the cost of Route 325 by \$112,000, and they are supported by the underlying surface owners. Alternately, the Commission should adopt Route 325 as proposed. However, if the Commission follows the PFD in adopting Route 320, it should at a minimum incorporate Oxy and Concho’s proposed modification to links J1/J7. As discussed in Concho’s Exceptions, route modification consent agreements have been obtained from every surface owner who would be impacted by that proposed modification. Additionally, the PFD indicated that the ALJs would have adopted this modification if the landowner consents were in the record when the PFD was being written.³⁴ While Oxy and Concho have not yet been able to obtain route modification consent agreements from the surface owners underlying their other modifications to Route 320, the J1/J7 modification will at least partially mitigate the negative impacts of Route 320.

II. PROCEDURAL HISTORY

Not addressed.

III. JURISDICTION AND NOTICE

Not addressed.

IV. ISSUES RELATING TO THE APPLICATION

Not addressed.

³¹ *Id.* at 46:5-16.

³² Oncor/AEP Initial Br. at 4.

³³ Oxy also does not oppose the adoption of Plains Pipeline’s proposed modification to Link B2, as discussed in the PFD.

³⁴ PFD at 24.

V. ROUTE SELECTION

A. Overview

Please refer to Section I, above.

B. Adequacy of Existing Service and Need for Additional Service

Not addressed.

C. Community Values

- i. The Commission should consider impacts to oil and gas development when evaluating the impact of this line on this rural, west Texas community.*

The Commission has previously “interpreted the term “community values” to mean a shared appreciation of an area or other *natural* or human resource by members of a national, regional, or local community. Adverse effects upon community values consist of those aspects of a proposed project that would *significantly and negatively alter the use*, enjoyment, or intrinsic value attached to an important area *or resource* by a community.”³⁵

Preserving and promoting oil and gas development should factor heavily in the Commission’s evaluation of how this line will impact this west Texas community because “[m]ost of the study area consists of *rural, undeveloped land used primarily for oil and gas production*,”³⁶ and such activity makes up the vast majority of the economic activity in this area.³⁷ Within the study area, there are over 4,600 locations registered in the Railroad Commission’s database of oil and gas infrastructure,³⁸ which is nearly 5 such locations per square mile.³⁹ In fact, oil and gas facilities are so pervasive that “*the oil and gas industry is the primary aesthetic for a great*

³⁵ *Application of Brazos Electric Power Cooperative, Inc. for an Amendment to Its Certificate of Convenience and Necessity for a 138-kV Transmission Line in Denton County*, Docket No. 45170, Final Order at 9, FoF 65 (Jul. 28, 2016) (emphases added).

³⁶ Oncor/AEP Ex. 1, Application, Environmental Assessment at 3-70 (emphasis added); *see also id.* at 3-73 (“In contrast to a rural Texas community with a largely agricultural economy, the oil and gas industry is the primary aesthetic for a great majority of the study area. The public road network is sparse compared to private road access to individual well locations, and oil and well facilities and the vehicles that service them are persistent and prominent from most public viewsheds.”).

³⁷ Tr. (Marusak Cr.) at 40:19-41:4.

³⁸ Oncor/AEP Ex. 1, Application, Environmental Assessment at 3-72.

³⁹ *Id.* at 2-2 (The study area covers approximately 960 square miles. $4600 / 960 = 4.84$ registered locations per square mile).

*majority of the study area,*⁴⁰ and oil and gas “man camps” account for nearly all of the potentially affected habitable structures.⁴¹ The extent of the oil and gas development in this area is apparent from the aerial maps provided along with the Application. Each yellow dot represents a well location from the Railroad Commission database:

Figure 1: Aerial View of Central Corridor Near Links G51/G52/I3⁴²



It is undisputed that oil and gas development is especially dense around the central corridor used by Route 320.⁴³ Contrast the portion of the central corridor depicted above with one of the most heavily developed areas along the western corridor:

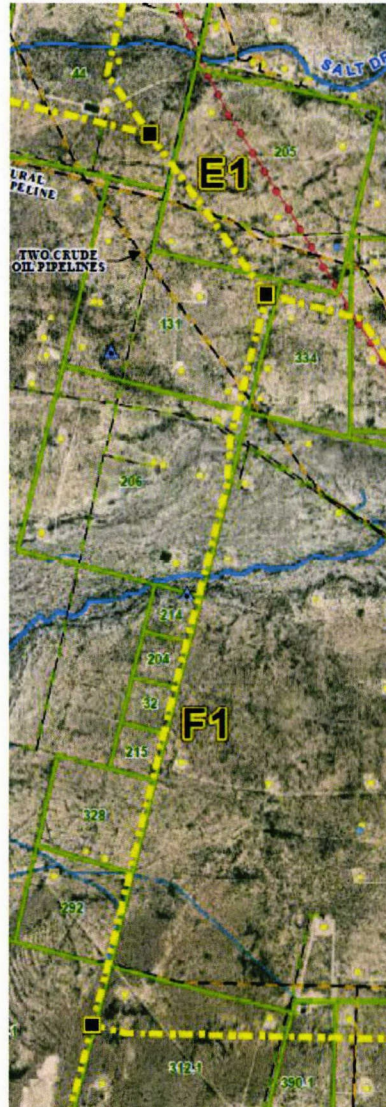
⁴⁰ *Id.* at 3-73.

⁴¹ See PFD at 33-34 (oil and gas “man camps” account for 34 of the 38 habitable structures within 500 feet of Route 320).

⁴² See Oncor/AEP Ex. 1, Application, Attachment 1 (Environmental Assessment) at Appendix G, Figure 3-1B.

⁴³ See, e.g., Oxy Ex. 2 (Mendoza Dir.) at 3.

Figure 2: Aerial View of Western Corridor Near Links E1/F1⁴⁴



Siting this line along the more sparsely developed western corridor will protect the most prominent and economically important natural resource in this community, and the Commission should consider that benefit of Route 325 Modified when making its routing determination.

⁴⁴ Oncor/AEP Ex. 1, Application, Attachment 1 (Environmental Assessment) at Appendix G, Figure 3-1A.

ii. ***Selecting a western corridor will protect oil and gas development in this study area.***

The central corridor of this study area is home to several densely packed and rapidly expanding oil and gas production areas, and the impacts of running a transmission line through those areas are undisputed. As the PFD acknowledged, “[t]he record does not contain statements from the Applicants or others who support Route 320 rebutting Oxy’s contentions regarding health, safety, and lost revenues that could occur if Route 325 Modified is not approved.”⁴⁵

As discussed above and in Oxy witness Mr. Mendoza’s testimony, building a transmission line through the center of an oil and gas production area makes it harder and more dangerous for Oxy personnel to do their jobs.⁴⁶ Oil and gas development requires the use of large equipment, tall cranes, and drilling rigs, all of which require special consideration when being transported and operated in the vicinity of a high voltage transmission line.⁴⁷ While Oxy is committed to working with Oncor and AEP to avoid interference with each other’s work, the presence of a transmission line in an oil and gas production area necessarily slows the pace of development and exposes Oxy personnel to avoidable dangers.

Additionally, contrary to the PFD’s claims,⁴⁸ the record demonstrates that placing inaccessible transmission line right-of-way down the central corridor will interfere with Oxy’s ability to execute on established drilling plans and efficiently harvest natural resources. Route 320 would bisect ***eleven of Oxy’s established drilling corridors*** along links F3/G4/G51/I2 and J1/J7.⁴⁹ Each one of those drilling corridors represents a substantial outlay of effort and capital on Oxy’s part to conduct geological surveys and develop efficient well spacing that will maximize resource production.⁵⁰ The image below illustrates how proposed Route 320 (the red line) bisects Oxy’s developing drilling corridors (represented by yellow boxes) along links F3/G4/G51/I2.

⁴⁵ PFD at 24.

⁴⁶ Oxy Ex. 2A (Confidential Mendoza Dir.) at 6-8.

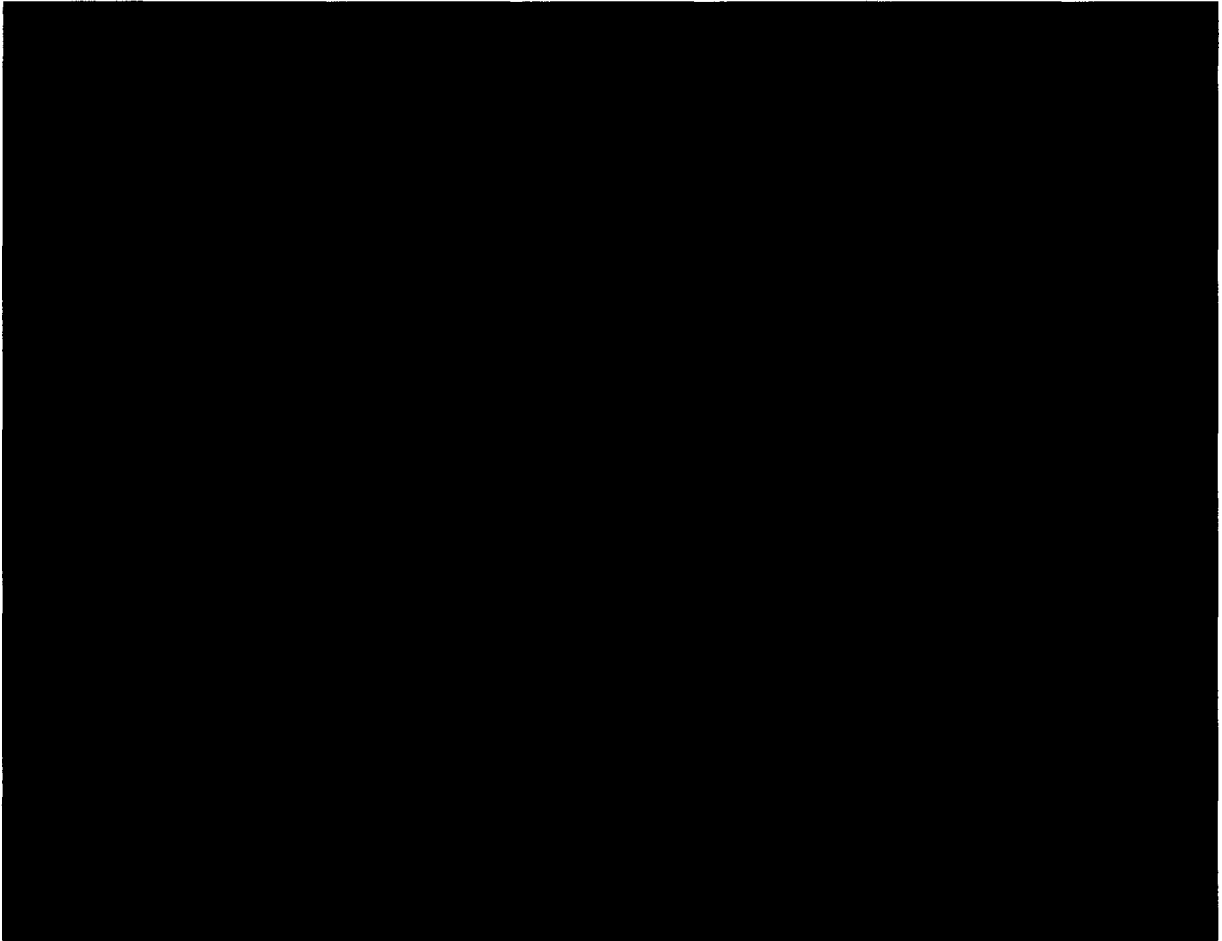
⁴⁷ *Id.*

⁴⁸ See PFD at 24.

⁴⁹ See Oxy Ex. 4 and 5 (HSPM); Tr. (Mendoza Re-Dir.) at 95:1-14.

⁵⁰ Tr. (Mendoza Re-Dir.) at 95:1-23.

Figure 3: Oxy's Ongoing Development Along Links F3/G4/G51/I2 (HSPM)⁵¹



At the time of the hearing on the merits in February, Oxy was already in the process of executing its established drilling plans along the central corridor. In addition to the twelve wells that Oxy had already drilled within 1000 feet of Route 320, it was in various stages of developing seven additional facilities within that narrow corridor.⁵² Constructing Route 320 across Oxy's established drilling corridors will disrupt Oxy's plans and constrain its ability to efficiently and completely produce the oil and gas underlying its leases.⁵³ In this area of Texas, maximum production is generally achieved by tightly spacing wells in a straight line along an established

⁵¹ Oxy Ex. 4 (HSPM).

⁵² Tr. (Mendoza Re-Dir.) at 93:4-15; *see also* Oxy Ex. 4-6.

⁵³ *See* Tr. (Lowery Re-Dir.) at 107:25-109:15.

drilling corridor. Figure 4 below shows a good example of how efficient drilling corridors in this area look when they are completed, with the yellow dots on the left hand side of the image representing Railroad Commission well data:

Figure 4: Example of an Efficient Drilling Corridor West of Link F3



As Concho witness Mr. Lowery discussed at the hearing, if inaccessible transmission line right-of-way requires Oxy and Concho to adjust the spacing between wells or shift them away from section lines, that can decrease the distance between acceptable initial and final take points and preclude efficient recovery of the underlying natural resources.⁵⁴ It is also likely that, due to the configuration of Oxy's leases, the presence of inaccessible transmission line right-of-way will prevent Oxy from developing some wells altogether. For example, Oxy expects that proposed Link C2 would interfere with a planned well location on Tract 504.⁵⁵ Oxy estimates that the loss of a single well in this area would cost it approximately ***[REDACTED]*** per year in lost revenues over the life of a well that could produce for ***[REDACTED]***.⁵⁶

Nor will it be possible to significantly mitigate the impact of Route 320 on Oxy's operations. Oxy and Concho's proposed modification in this area roughly followed links F3/G51/G52/I3, and is represented by the green line in Figure 3 above. That modification was designed to either avoid established drilling corridors entirely or cross them along section lines,

⁵⁴ *Id.*

⁵⁵ Oxy Ex. 2 (Mendoza Dir.) at 9-10.

⁵⁶ Oxy Ex. 2A (Confidential Mendoza Dir.) at 8.

which would somewhat mitigate the disruption caused by the line.⁵⁷ Unfortunately, despite Oxy's diligent efforts, it has not yet been unable to obtain consent agreements from some of the surface owners underlying that modification, and has received negative indications from at least one of those landowners. Due to the time constraints involved in this "critical to reliability" project, Oxy will not have an opportunity to develop an alternative modification proposal if it is unable to obtain landowner consent agreements for its change to Links F3/G4/G51/I2. If the Commission selects Route 320 without this modification, Oxy's operational concerns along these links will not be mitigated in any way.

Accordingly, the record establishes that Oxy will lose significant revenue and income if Route 320 prevents it from efficiently developing its fields or maintaining existing wells. Lost production does not just harm Oxy, but also has negative impacts for property owners entitled to royalties from Oxy's wells.⁵⁸ There are also both direct and indirect revenue impacts for the State of Texas, as impairing oil and gas development deprives the state of additional taxes and has a negative overall impact on local jobs and economic development related to the oil and gas industry, which accounts for a large portion of the economic activity in this study area.⁵⁹ Rather than imposing these impacts on Oxy, the Commission should adopt Route 325 Modified, which still affects Oxy's operations, but through an area where oil and gas development is substantially less dense.

iii. Contrary to the PFD's finding, the Commission is not limited to adopting all or none of Oxy and Concho's proposed modifications.

As discussed in detail in Section V.N, Oxy and Concho have obtained executed route modification consent agreements from the landowners who would be affected by Oxy and Concho's proposed modifications to Links E1/F1 and K11 on Route 325, and Links J1/J7 on Route 320, and are asking the Commission to adopt those modifications. However, Oxy and Concho have not yet been able to obtain consent agreements from every affected landowner on their proposed modifications to Links F3/G4/G51/I2 on Route 320 or Link C2,⁶⁰ which appears on both Route 320 and Route 325.

⁵⁷ See Oxy Ex. 3 (Mendoza Cross-Reb.) at 6-7.

⁵⁸ See Oxy Ex. 2 (Mendoza Dir.) at 7-8.

⁵⁹ See *id.*; Tr. (Lowery Re-Dir.) at 108:21-109:10.

⁶⁰ Oxy is still attempting to obtain outstanding route modification consent agreements. In particular, Oxy has received positive indications from the only remaining surface owner who has not consented to the Link C2 modification,

Oxy strongly disputes the PFD's claim that "[t]he ALJs also cannot accept some of the modifications proposed by Oxy and Concho without all of their proposed modifications being available because the record does not indicate the effects that could result from a partially modified route."⁶¹ Oxy assumes that the PFD is referencing the lack of specific statistical information showing, for example, the number of feet of property lines that would be paralleled by a version of Route 325 that incorporates Oxy and Concho's proposed modifications along Links E1/F1 and K11, but omits their proposed changes to Link C2. But nothing in PURA or the Commission's rules requires that modification proposals be supported by such specific information.

The Commission has the authority to adopt reasonable modifications based on general information about how the proposed changes would improve a filed route. This is apparent from the PFD itself, which adopts Plains Pipeline's modification to Link B2 even though the record does not contain specific information about the cost of that modification, its impacts on paralleling compatible rights-of-way, or similar issues.⁶² To be clear, Oxy does not oppose Plains' proposed modification, and believes there is sufficient information in the record to support its adoption. That is exactly the point. The record demonstrates that Plains' modification will avoid habitable structures and mitigate the impact of this line on Plains while only minimally affecting cost, paralleling, and other issues. That is enough information, and enough specificity, to support the adoption of a route containing that modification under PURA § 37.056 and Substantive Rule 25.101(b)(3)(B). Similarly, the Commission has sufficient information to adopt some of Oxy and Concho's proposed modifications even if not all of them are available at this time.

This Commission has not previously required the level of specificity that the PFD implies would be necessary to support Route 325 Modified (E1/F1 and K11) or Route 320 Modified (J1/J7). For example, in prior CCN proceedings, the Commission has adopted modifications following Open Meeting discussions despite having little or no statistical information about those proposals. For instance, in the *McCamey D to Kendall* CCN case, the Commission's final order instructed LCRA to shift a proposed link "as far south as safely and reliably possible using above ground construction while still affecting only noticed landowners."⁶³ This modification was a departure

but is still awaiting an executed agreement. Oxy will inform the Commission if and when that agreement is obtained.

⁶¹ PFD at 24.

⁶² See PFD at 2.

⁶³ See *Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity for the Proposed McCamey D to Kendall to Gillespie 345-kV CREZ Transmission Line in Schleicher, Sutton,*

from the PFD, and at the time it was adopted, it was impossible to determine how far south the line could be safely and reliably moved. Nevertheless, the Commission was within its authority to adopt that modification. Similarly, in Docket No. 48095, which was decided last fall, the Commission adopted a route that contained modifications from three separate parties, even though the record did not demonstrate how that particular combination of modifications affected the route's statistical performance.⁶⁴ Instead, the Commission's order discussed the characteristics of the as-filed version of the route it was approving and then independently found that the proposed modifications were reasonable.⁶⁵ Once again, the Commission did not need specific statistical information about each modification to determine that a route including those modifications was acceptable under the factors laid out in PURA § 37.056 and Substantive Rule 25.101(b)(3)(B).

Finally, it would be inequitable for the Commission to reject Oxy and Concho's proposed modifications to Links E1/F1, K11, or J1/J7—which are supported by the underlying landowners—due to the companies' inability to obtain route modification consent agreements for completely separate changes to Links C2 or F3/G4/G51/I2. This is a “critical to reliability” project that has been litigated on an accelerated timeline, which has made it difficult to develop modifications and obtain consent agreements. Despite diligent efforts, Oxy, Concho, and the Applicants were still working to develop mutually-agreeable modification proposals up until the day before cross-rebuttal testimony was due on February 4.⁶⁶ By the time the modification proposals were finalized, the companies had just over two weeks to identify surface owners, contact them, and solicit their concerns about the proposed modifications prior to the hearing on the merits. As issues were identified after the hearing—including unwilling or unavailable surface owners—it was already too late to develop a record to support subsequent modification proposals. The Commission should not reject rational modifications to Links E1/F1, K11, or J1/J7 that are agreeable to the affected surface owners simply because other modification proposals on the same routes have not yet received support from the underlying surface owners.

Menard, Kimble, Mason, Gillespie, Kerr, and Kendall Counties, Docket No. 38354, Order at 2 and 24, Ordering Paragraph 2 (Jan. 24, 2011).

⁶⁴ See *Application of Oncor Electric Delivery Company, LLC to Amend a Certificate of Convenience and Necessity for a 345-kV Transmission Line in Crane, Ector, Loving, Reeves, Ward, and Winkler Counties (Odessa EHV-Riverton and Moss-Riverton CCN)*, Docket No. 48095, Order on Rehearing at 9, 18 (Nov. 8, 2018) (discussing statistical information about Route 1180 as filed and then adopting modifications proposed by three different parties).

⁶⁵ *Id.*

⁶⁶ See *Oxy Ex. 3 (Mendoza Cross-Reb.)* at 6-7 (discussing the difficulties encountered by the parties when developing modification proposals).

D. Structures: Transmitters, Airports, Airstrips, and Irrigation Systems

Not addressed.

E. Park and Recreational Areas

Not addressed.

F. Historical, Cultural, and Aesthetic Values

Not addressed.

G. Environmental Integrity

The PFD notes that the central corridor routes slightly outperform route 325 Modified with respect to environmental issues because they spend approximately two fewer miles crossing riparian areas and habitat for endangered/threatened species.⁶⁷ However, it is important to note that this is a slight difference in the context of a line that is expected to run between 44.5 and 58.7 miles.⁶⁸ Further, these environmental factors are far outweighed by the impact that the central routes would have on the oil and gas development that is the primary economic driver in this study area. As such, taken as a whole, Route 325 Modified still outperforms the central corridor routes under the factors laid out in PURA § 37.056(c).

H. Probable Improvement of Service or Lowering of Costs to Consumers

Not addressed.

I. Engineering Constraints

Routing this line down the central corridor substantially increases the chance that the utilities will encounter unexpected engineering constraints during construction, which could significantly increase costs⁶⁹ and delay construction⁷⁰ on a project that needs to be built on a short timeline in order to satisfy a critical reliability need.⁷¹ Building along the less developed western

⁶⁷ PFD at 28-29.

⁶⁸ Oncor/AEP Ex. 1, Application at 4.

⁶⁹ Tr. (Peppard Cr.) at 44:2-6, 45:7-46:4.

⁷⁰ *Id.* at 44:13-18, 45:7-46:4.

⁷¹ *Id.* at 46:5-16.

corridor will mitigate this risk, which is a critical advantage of Route 325 Modified that the PFD did not substantively address.⁷²

It is undisputed that the oil and gas production areas along the central corridor are more extensive, more dense, and expanding more rapidly than similar areas along the western corridor.⁷³ The record shows that the development timeline for new oil and gas wells is extremely fast, with typical projects going from design to development in 6-8 weeks and accelerated projects in as little as 1-2 weeks.⁷⁴ The potential impacts of this rapid development are discussed in the Environmental Assessment, which stated that “[d]uring field reconnaissance, well and pipeline facilities not shown on the aerial or in the RRC database were either constructed, under construction, or being staked for construction, indicating that *this particular land use constraint is very dynamic and subject to change depending on the date of observation.*”⁷⁵ After conducting aerial reconnaissance, the utilities modified *twelve* of their preliminary links to avoid recent oil and gas development that did not appear on previous aerial imaging.⁷⁶ Testimony from Oxy and Concho demonstrates the rapid pace of development along the central corridor in particular.⁷⁷ At the time of the hearing on the merits, Oxy had twelve completed wells within 1,000 feet of route 320⁷⁸ and was in the process of constructing an additional seven facilities in that same area, which is *over a 50% increase* just this year.⁷⁹ Similarly, Concho Exhibit 4 includes aerial maps showing that over the last six years, there has been a dramatic increase in oil and gas development near the southern end of Route 320 near links J1/J7.⁸⁰ Worse, as noted above, Oxy and Concho are not the only operators in this study area, and companies that are not involved in this proceeding are unlikely to be siting their facilities with any knowledge of the transmission line routes proposed in this proceeding.

⁷² See PFD at 30.

⁷³ See, e.g., Oxy Ex. 3 (Mendoza Cross-Reb.) at 3; cf. Figure 1 and Figure 2, above.

⁷⁴ Tr. (Mendoza Cr.) at 90:7-18; Tr. (Lowery Cr.) at 101:17-25.

⁷⁵ Oncor/AEP Ex. 1, Application, Environmental Assessment at 3-72 (emphasis added).

⁷⁶ See *id.* at 6-1 through 6-5.

⁷⁷ Oxy Ex. 2 (Mendoza Dir.) at 5; Concho Ex. 1, Direct Testimony of Terry Burkes (Burkes Dir.) at 6.

⁷⁸ Tr. (Mendoza Re-Dir.) at 92:21-93:3.

⁷⁹ Tr. (Mendoza Re-Dir.) at 93:4-15; see also Oxy Ex. 4-6.

⁸⁰ See Concho Ex. 4 (Confidential Illustration of Development from 2013 to 2019) at 2-3.

The potential for an unexpected oil and gas facility to increase construction costs is illustrated by Oxy's proposed modification to Link C2,⁸¹ which was designed to avoid a planned well location in the corner of Tract 504.⁸² Despite deviating from the proposed path of Link C2 only slightly to avoid the well location while still crossing IH 20 Business at an appropriate angle, the modification to Link C2 is estimated to cost approximately \$900,000.⁸³ While the cost of this modification is reasonable to avoid foreclosing the construction of that well on Tract 504 and the development of the underlying resources, it illustrates how the cost differential between Route 320 and Route 325 Modified could close rapidly if Oncor and AEP are forced to work around unanticipated oil and gas facilities while building along the central corridor.

Additionally, the density of the development along the central corridor will make it difficult for the utilities to work around any unanticipated facilities that they encounter, which could delay construction. As Oxy witness Mr. Mendoza discusses in his cross-rebuttal testimony, "[t]he issues that could arise if the Commission routes this line down the central corridor are illustrated by Oxy and Concho's struggles to develop mutually agreeable modification proposals over the weeks since direct testimony was filed. Multiple modification proposals were considered and then rejected after either Oxy, Concho, or the utilities identified recently constructed oil and gas infrastructure that would be directly impacted by the transmission line, including newly-developed sites that did not appear on earlier aerial imaging."⁸⁴ As Oncor witness Mr. Peppard admitted at the hearing, working around unanticipated engineering constraints is a laborious process that could delay construction on this critical infrastructure project,⁸⁵ and it is undisputed that the risk of encountering such constraints is higher along the central corridor.⁸⁶ It is in the public interest for the Commission to minimize that risk. Due to the rapid pace of development along the central corridor, the Applicants noted in their briefing to SOAH that ***"[f]rom a construction standpoint, route 325 may be better than route 320 when considering the likelihood of potential engineering***

⁸¹ As noted elsewhere in this brief, Oxy is still awaiting a single route modification consent agreement related to Link C2, but has received positive indications from that surface owner. Oxy will update the Commission if and when that agreement is obtained.

⁸² Oxy Ex. 2 (Mendoza Dir.) at 9-10; Oxy Ex. 3 (Mendoza Cross-Reb.) at 4-5.

⁸³ Oncor/AEP Exhibit 12, (Peppard Reb.) at 12 (cost of route modifications).

⁸⁴ Oxy Ex. 3 (Mendoza Cross-Reb.) at 3.

⁸⁵ Tr. (Peppard Cr.) at 44:13-18, 45:7-46:4.

⁸⁶ *Id.* at 48:8-22.

*constraints that could arise in the more active developmental areas that route 320 crosses.”*⁸⁷

This is a significant factor that should weigh heavily in the Commission’s routing analysis.

J. Costs

The additional cost associated with Route 325 Modified (E1/F1 and K11) is reasonable and within the bounds of prior Commission decisions. The Applicants estimate that Route 325 Modified (E1/F1 and K11) will cost \$116,270,000, which is \$112,000 less than Route 325 as proposed.⁸⁸ This is \$10.6 million less than the most expensive filed route.⁸⁹ Route 320, which was the cheapest route filed along with the Application, is estimated to cost \$98,220,000.⁹⁰ Route 325 Modified is \$18,050,000 (or 18.4%) more expensive than Route 320.

While this cost differential is substantial, this Commission has recently approved transmission line routes that involved greater cost increases than the one presented in this case on both a percentage and absolute basis. For instance, in Docket No. 47808, which was decided this past January, the Commission accommodated the Spires Ranch’s request to preserve its viewshed by shifting a transmission line to a back-country portion of its property where construction would be significantly more expensive. In that case, the Commission approved a route that was **29.2% more expensive** than the least expensive filed route, even though the less expensive route was supported by both the utilities and Commission Staff.⁹¹ In contrast, Route 325 Modified is only 18.4% more expensive than Route 320,⁹² placing it well within the range of recent litigated outcomes in front of this Commission.

In other CCN cases, the Commission has adopted routes that added significantly more than \$18.05 million to the cost of a line (compared to the utility’s preferred route) in order to resolve concerns expressed by landowners. In Docket No. 38517, the utility’s preferred route cost \$148.5

⁸⁷ Oncor/AEP Initial Br. at 4.

⁸⁸ Oncor/AEP Ex. 6, (Peppard Dir.) at 7 (cost estimates for proposed modifications).

⁸⁹ The most expensive proposed route is estimated to cost \$126,903,000. *See id.* (\$126,903,000 - \$116,270,000 = \$10,633,000).

⁹⁰ *See* Oncor/AEP Ex. 6, (Peppard Dir.) at 7.

⁹¹ In that case, the Commission approved Modified route 39 at an estimated cost of \$26,341,000, which is 29.2% more expensive than the least expensive filed route (\$20,395,000). Even without the cost of modifications that were proposed by Oxy, route 39 would have cost \$25,474,000, which was a 24.9% increase over the cheapest route. *See Joint Application of Oncor Electric Delivery Company LLC and Brazos Electric Cooperative, Inc. to Amend Certificates of Convenience and Necessity for the Cogdell to Clairemont 138-kV Transmission Line in Kent and Scurry Counties*, Docket No. 47808, Order at 4, 11 (Jan. 18, 2019).

⁹² $(\$116,270,000 - \$98,220,000) / \$98,220,000 = 18.37\%$

million, but the Commission ultimately approved a route that cost \$173.6 million—a difference of \$25.1 million (and a 16.9% cost increase over the preferred route).⁹³ Similarly, in Docket No. 38140, the Commission approved a settlement route that was **\$42.1 million more expensive** than the utility’s suggested route (and a 21.4% cost increase).⁹⁴ Additionally, the route approved in Docket No. 38140 was \$25.9 million more expensive than the **most** expensive alternative route filed along with that application.⁹⁵ Accordingly, it is clear that the cost differential between Route 325 Modified and Route 320 is not prohibitive, and Route 325 Modified should be selected because its other benefits outweigh its additional cost.

Finally, it is worth noting that the cost differential between Route 325 Modified and the central corridor routes is likely overstated. First, as discussed in the previous section, the cost estimates for the central corridor routes do not factor in the expense of resolving any unanticipated engineering constraints that the utilities might encounter as they attempt to build this line through a densely packed oil field.⁹⁶ Second, those estimates do not account for any costs associated with condemning mineral interests or expensive oil and gas infrastructure, which could be substantial. Oxy estimates that losing a single productive well in this area (because it cannot be developed or would have to be shut in) would cost Oxy *** [REDACTED] *** in revenue per year, which is even more substantial considering that a well can be expected to produce for *** [REDACTED] ***.⁹⁷ Accordingly, building this line down the more sparsely developed western corridor is likely to offset the additional cost associated with Route 325 Modified.

⁹³ Cf. *Application of Oncor Electric Delivery Company LLC to Amend Its Certificate of Convenience and Necessity for the Clear Crossing to Willow Creek CREZ 345-kV Transmission Line in Haskell, Jones, Throckmorton, Shackelford, Young, Stephens, Jack, Palo Pinto, Wise, and Parker Counties*, Docket No. 38517, Direct Testimony of Brenda Perkins at 9 (Aug. 16, 2010) (preferred route estimated to cost \$148,512,000); with Docket No. 38517, Final Order at 8, 14 (Feb. 10, 2011) (adopting modified route 1091 at a cost of \$173,594,000 in order to address the concerns of active intervenors).

⁹⁴ Cf. *Application of Oncor Electric Delivery Company LLC to Amend a Certificate of Convenience and Necessity for the Riley-Krum West 345-kV CREZ Transmission Line (Formerly Oklaunion to West Krum) in Archer, Clay, Cooke, Denton, Jack, Montague, Wichita, Wilbarger, and Wise Counties, Texas*, Docket No. 38140, Direct Testimony of Jill Alvarez at 11 (Apr. 30, 2010) (preferred route estimated to cost \$196,896,000; most expensive filed route estimated to cost \$213,118,000); with Docket No. 38140, Final Order at 15 (Oct. 29, 2010) (approving a settlement route that was estimated to cost \$239,000,000).

⁹⁵ *Id.*

⁹⁶ See Section V.I.

⁹⁷ Oxy Ex. 2A (Confidential Mendoza Dir.) at 7-8.

K. Moderation of Impact on Affected Community and Landowners

The public interest is best served by Route 325 Modified because that route will minimize the impact of this line on the affected community and landowners. As discussed above, oil and gas development makes up the *vast majority* of the surface development in this study area, and it is a primary economic driver in this region.⁹⁸ Lost production does not just harm Oxy and other operators, but also has negative impacts for royalty interest owners.⁹⁹ There are also both direct and indirect revenue impacts for the State of Texas, as impairing oil and gas development deprives the state of additional taxes and has a negative overall impact on local jobs and economic development related to the oil and gas industry, which is especially important in this study area.¹⁰⁰ Accordingly, minimizing the impact of this line on oil and gas development is consistent with the Commission's obligation to route transmission lines "to the extent reasonable to moderate the impact on the affected community and landowners."¹⁰¹

To be clear, even if the Commission adopts Route 325 Modified, Oxy will still be significantly impacted by this line. Route 325 Modified directly affects properties that Oxy owns or leases along four different links across three separate oil and gas production areas,¹⁰² and will cross seven tracts where Oxy owns the surface estate.¹⁰³ Additionally, that route will disrupt a planned well location along link C2¹⁰⁴ (unless Oxy is able to obtain a consent agreement from the last affected surface owner) and interfere with Oxy's existing operations near link D1 (where Oxy and the Applicants were unable to develop a mutually-agreeable modification to mitigate the impact of the line¹⁰⁵). Nevertheless, Oxy understands the need for new infrastructure in this area,

⁹⁸ Tr. (Marusak Cr.) at 40:19-41:4; *see also* Oncor/AEP Ex. 1, Application, Environmental Assessment at 3-29 ("The bulk of the region is used for oil and gas production or range for livestock; cropland within the study area is less common and is limited to scattered irrigated fields.").

⁹⁹ *See* Oxy Ex. 2 (Mendoza Dir.) at 7-8.

¹⁰⁰ *See id.*; Tr. (Lowery Re-Dir.) at 108:21-109:10.

¹⁰¹ *See* PUC Subst. R. 25.101(b)(3)(B).

¹⁰² *See* Oxy Ex. 3 (Mendoza Cross-Reb.) at 11.

¹⁰³ *See* Oncor Ex. 2 (Notice Affidavit) at 18 (Oxy entities were the notified surface owners for Tract 420 along Link C2 and Tracts 204, 214, 215, and 328 along Link F1); Oxy Ex. 8, Affidavit of Ryan Pfefferle (Pfefferle Affidavit) (attesting to Oxy's ownership of the surface estate on Tracts 205 and 206).

¹⁰⁴ Oxy Ex. 2 (Mendoza Dir.) at 9-10.

¹⁰⁵ Oxy Ex. 3 (Mendoza Cross-Reb.) at 9.

and is willing to accept the impacts of Route 325 Modified in order to avoid the much more severe consequences of routing this line through its operations along the central corridor.

L. Use of Compatible ROWs, Paralleling of Existing ROWs, and Paralleling of Property Lines

Route 325 Modified significantly outperforms Route 320 in terms of paralleling. Route 320 only parallels property lines and existing rights-of-way for approximately 27.2% of its length,¹⁰⁶ and that route's failure to follow property boundaries and section lines is part of why it is so disruptive to Oxy's operations along the central corridor. In contrast, proposed Route 325 was the *best* of the filed routes in terms of paralleling, with **48.7%** of its length parallel to existing compatible ROW.¹⁰⁷ Route 325 Modified (including all three of Oxy and Concho's proposed modifications) parallels property boundaries and compatible rights-of-way for 43.0% of its length.¹⁰⁸ That number is representative of the paralleling statistics for Route 325 Modified (E1/F1 and K11) because the only difference between those routes is the modification to Link C2, and neither that proposed modification nor the portion of Link C2 that it modifies parallel property boundaries or compatible rights of way.¹⁰⁹ This is a significant advantage of Route 325 Modified (E1/F1 and K11) that the Commission should consider in its routing analysis.

M. Prudent Avoidance

Both Route 325 Modified (E1/F1 and K11) and Route 325 as proposed pass within 500 feet of 37 habitable structures, which is one fewer than Route 320.¹¹⁰ As the PFD found, 32 of those structures along Link B2 (which appears on both Route 320 and Route 325) are temporary trailers in an oil and gas "man camp."¹¹¹ Oxy agrees with the PFD that the Commission should consider the character of those structures when determining which route best complies with the Commission's policy of prudent avoidance, and should not select Route 41 simply because it

¹⁰⁶ PFD at 33.

¹⁰⁷ See Oncor/AEP Ex. 1, Application at Attachment 12.

¹⁰⁸ See Oncor/AEP Ex. 11, Rebuttal Testimony of Russell Marusak (Marusak Reb.) at Exhibit RJM-R-7 (data for modified routes).

¹⁰⁹ See Oxy Ex. 3 (Mendoza Cross-Reb.) at 5, Figure AM-11 (map of the proposed modification to Link C2).

¹¹⁰ Oncor/AEP Ex. 7, Direct Testimony of Brenda Perkins (Perkins Dir.) at Exhibit BJP-5 at 4 (data for as-filed routes); Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibit RJM-R-7 (data for modified routes).

¹¹¹ PFD at 34.

avoids those structures.¹¹² Additionally, Oxy does not oppose Plains Pipeline's proposed modification to Link B2, which would shift the line away from many of those "man camp" trailers.

In sum, Route 325 Modified presents a slight advantage over Route 320 with respect to avoiding habitable structures.

Route	325 (as proposed or Modified)	320
Habitable Structures	37	38
Habitable Structures (minus 32 "man camp" trailers)	5	6

N. Alternative Routes or Facility Configurations

1. Specific Alternatives and Cost

The Commission should adopt Oxy and Concho's proposed modifications to Route 325 along Links E1/F1 and K11. Alternately, if the Commission adopts Route 320, it should at a minimum adopt Oxy and Concho's proposed modification along Links J1/J7.

The affected surface owners have agreed to Oxy and Concho's modifications to Links E1/F1, K11, and J1/J7. Along with these Exceptions, Oxy and Concho are submitting an unopposed motion to admit additional route modification consent agreements which demonstrate that the surface owners underlying those modifications approve of them. In particular, Oxy's proposed modification to Links E1/F1 would impact Tracts 44, 131, 205, and 206.¹¹³ Oxy entities own the surface estate on Tracts 205 and 206.¹¹⁴ Tract 44 is owned by the Balmorhea Ranch,¹¹⁵ which has provided a route modification consent agreement.¹¹⁶ Tract 131 is owned by Chevron USA,¹¹⁷ which has also indicated its consent.¹¹⁸ Concho will discuss the landowner consents for Oxy and Concho's proposed modifications to links K11 and J1/J7 in its Exceptions.

¹¹² PFD at 34-35.

¹¹³ See Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibit RJM-R-7.

¹¹⁴ Oxy Ex. 8 (Pfefferle Affidavit).

¹¹⁵ Oncor Ex. 2 (Notice Affidavit) Attachment 4 at 1.

¹¹⁶ Oxy Ex. 7-3 (Landowner Consents).

¹¹⁷ Oncor Ex. 2 (Notice Affidavit) Attachment 4 at 2.

¹¹⁸ Oxy Ex. 7-2 (Landowner Consents).

The Commission should adopt Oxy and Concho's proposed modifications to Links E1/F1 and K11 on Route 325 because they will help Oxy and Concho to mitigate the impact of Route 325 on their operations.¹¹⁹ The E1/F1 modification shifts the line slightly to the east so it parallels tract boundaries and frees up additional space for oil and gas development.¹²⁰ Additionally, that modification will *decrease* the estimated cost of Route 325 by **\$180,000**, primarily because it eliminates the need for an angle structure.¹²¹ This more than offsets the minimal cost increase associated with Concho's proposed modification to Link K11. Further, because the E1/F1 and K11 modifications are supported by the underlying surface owners, adopting these modifications to Route 325 is a clear choice.

If the Commission adopts Route 320, it should incorporate Oxy and Concho's proposed modifications to Links J1/J7 into that route. The PFD found that, if route modification agreements had been in the record, it would have adopted all of Oxy and Concho's proposed modifications to Route 320.¹²² The Commission's decision should be no different when considering Link J1/J7 Modified in isolation. That modification is now supported by all of the underlying landowners, and would only cost an additional \$600,000.¹²³ This increase in cost is worth it to at least somewhat mitigate the negative impacts of this line on Oxy and Concho's operations along the central corridor.¹²⁴

2. Landowner Contributions

In supporting the western corridor routes, Oxy is offering to shoulder a greater portion of the burden of this line. Oxy owns the surface estate on *seven tracts* that would be crossed by Route 325 Modified,¹²⁵ compared to just one such tract along Route 320.¹²⁶ Oxy's surface rights along Route 325 Modified account for most of the land under Links E1 and F1, as well as a portion of

¹¹⁹ See Oxy Ex. 2 (Mendoza Dir.) at 22.

¹²⁰ *Id.*

¹²¹ Oncor/AEP Ex. 6 (Peppard Dir.) at 7 (cost estimates for proposed modifications).

¹²² PFD at 24.

¹²³ Oncor/AEP Ex. 6 (Peppard Dir.) at 7 (cost estimates for proposed modifications).

¹²⁴ See Oxy Ex. 3 (Mendoza Cross-Reb.) at 3-4, 8.

¹²⁵ See Oncor Ex. 2 (Notice Affidavit) at 18 (Oxy entities were the notified surface owners for Tract 420 along Link C2 and Tracts 204, 214, 215, and 328 along Link F1); Oxy Ex. 8 (Pfefferle Affidavit) (attesting to Oxy's ownership of the surface estate on Tracts 205 and 206).

¹²⁶ Oncor Ex. 2 (Notice Affidavit) at 18 (Oxy entities own the surface of Tract 420 along Link C2).

Link C2.¹²⁷ Oxy's willingness to accept a greater portion of this line across tracts where it owns the surface estate is a significant concession, and will help decrease the impact of this line on other surface owners.

Further, throughout this case, Oxy has invested significant time and effort to determine whether and how it could mitigate the effects of this transmission project on its operations and accommodate this much-needed electrical infrastructure. As a result of these efforts, Oxy and Concho have developed reasonable modifications to Links E1/F1 and K11 that *decrease* the cost of Route 325 by \$112,000.¹²⁸ Taken together, Oxy's willingness to accept this line across surface tracts that it owns and its work to develop reasonable, cost-saving modifications demonstrate that Oxy is making a significant contribution toward this transmission project.

VI. TEXAS PARKS AND WILDLIFE DEPARTMENT

Not addressed.

VII. OTHER ISSUES

Not addressed.

VIII. CONCLUSION

The Commission should avoid Route 320 because it would severely and disproportionately burden oil and gas production in the study area by bisecting densely packed and rapidly expanding oil and gas production areas along the central corridor. This will have negative consequences for Oxy, its royalty owners, and the state and local economy. Accordingly, Oxy respectfully requests that the Commission adopt Route 325 Modified (incorporating Oxy and Concho's proposed modifications to links E1/F1 and K11) or Route 325 as proposed. Alternately, if the Commission selects Route 320, Oxy asks that the Commission incorporate Oxy and Concho's proposed modification along links J1/J7, which will at least partially mitigate the negative impacts of this transmission line on Oxy's operations.

¹²⁷ Tract 205 contains most of Link E1 and Tracts 204, 214, 215, and 328 account for a majority of Link F1.

¹²⁸ Oncor/AEP Ex. 6 (Peppard Dir.) at 7 (cost estimates for proposed modifications).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Michael McMillin, Attorney for Oxy, hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 23rd day of April, 2019, by hand-delivery, facsimile, electronic mail and/or First Class, U.S. Mail, Postage Prepaid.

Michael McMillin signed by permission
JSM